

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALFRED LEE BRANUM, <i>et al.</i> ,	§	
TDCJ-ID NO.286354,	§	
Plaintiffs,	§	
v.	§	CIVIL ACTION NO. H-03-3515
	§	
GARY JOHNSON, <i>et al.</i> ,	§	
Defendants.	§	

ORDER REGARDING MOTION TO PROCEED ON APPEAL *IN FORMA PAUPERIS*

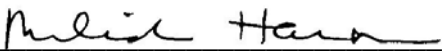
The Court has considered plaintiff's application for leave to proceed *in forma pauperis* on appeal and the certified trust fund account statement or institutional equivalent. It is ORDERED that:

1. Pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the Court certifies that the appeal is not taken in good faith because plaintiff did not timely file his notice of appeal.
2. Although this Court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the plaintiff may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, United States Court of Appeals for the Fifth Circuit, within thirty days of the date of this order.
3. If plaintiff moves to proceed on appeal *in forma pauperis*, he is not required to pay an initial partial filing fee because he lacks sufficient funds. Plaintiff shall pay the entire filing fee of \$455.00 in periodic installments as required by 28 U.S.C. § 1915(b)(2). The agency having custody of plaintiff shall collect this amount from the inmate's trust account and forward it to the court when funds are available.

5. The application for leave to proceed *in forma pauperis* on appeal (Docket Entry No. 30) is DENIED.

6. The Clerk shall prove a copy of this order to the plaintiff and a copy of this order by facsimile transmission, regular mail, or e-mail to the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159; the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793.

Signed at Houston, Texas, on this 22nd day of January, 2007.



MELINDA HARMON
UNITED STATES DISTRICT JUDGE